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CONSERVATION AND RATIONAL UTILIZATION OF STRADDLING AND HIGHLY MIGRATORY FISH SPECIES

(Submitted by the delegation of Ukraine)

1. The issue of rational utilization of living marine resources in exclusive economic zones and on the high seas, particularly of fish stocks which migrate both within and beyond the economic zones (straddling stocks), is an extremely topical one for Ukraine, since its fishing industry is currently based on exploitation of straddling stocks. A result of the considerable increase in recent decades in the intensity of fishing by coastal countries in their zones, and of the expansion of international distant-water fishing in and beyond the zones, has been that many of the major straddling stocks and highly migratory and associated species, which play an important role in the economies of a number of coastal countries, are currently under stress. In some cases, the situation is a result of the combined impact of fishing and long-term unfavourable changes in the environment. At the same time, a number of resources in the economic zones and on the high seas are underutilized. Thus straddling stocks and highly migratory fish stocks need careful intensive study, control and the development of conservation measures.

2. In this connection the issue of regulation, conservation and rational utilization of such stocks has in recent years become extremely important to many coastal countries that engage in fishing, and also to countries which engage primarily in distant-water fishing. Ukraine is at one and the same time a coastal State and a State which has for more than 40 years been engaging in distant-water fishing in the oceans and seas, and as a result has a very strong interest in the long-term and sustainable utilization of straddling and highly migratory targets of fishing activity both on the high seas and in the economic zones. With this in mind, Ukraine is particularly concerned at the absence of a reliable mechanism for regulating the fishing of straddling fish stocks and highly migratory fish stocks on the high seas and in the economic zones, and

supports the effort to devise a procedure which would harmoniously combine the interests of coastal States, distant-water fishing States and developing States. Such a procedure must ensure equitable participation of all concerned States in management of living resources on the high seas.

3. The 1992 United Nations Convention on the Law of the Sea formulated the basic principles by which all States must be guided in the rational utilization of living marine resources not only in the exclusive economic zones, but also on the high seas. Ukraine fully supports the need for a sufficiently clear delimitation of the fisheries competence of States in the various areas of the oceans and seas, and considers that the basic aim of the Conference is to draw up specific mechanisms for regulating fisheries and measures for the conservation and rational utilization of straddling fish stocks and highly migratory fish stocks on the basis of international cooperation.

4. Ukraine's position regarding the utilization by the international community of the world's resources on the high seas and in the economic zones, including straddling stocks and highly migratory fish stocks on the high seas, is based on the position stated in the preamble to the United Nations Convention on the Law of the Sea regarding the desirability of establishing through the Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans which will promote the equitable and efficient utilization of their resources and the study, protection and preservation of the marine environment, thus contributing to the realization of a just and equitable international economic order which takes into account the interests and needs of mankind as a whole.

5. Ukraine's position regarding fishing for straddling fish stocks and highly migratory fish stocks on the high seas and in the economic zones is that the exploitation of these stocks must be conducted in accordance with conservation and rational utilization measures drawn up on a scientific basis by means of bilateral or multilateral cooperation through regional or subregional international fisheries management organizations. The conservation and rational utilization measures drawn up as a result of international cooperation must be based on the principles and criteria of a scaled-down fisheries regime which assumes a lower level of removal than the maximum sustainable yield provided for in the United Nations Convention with respect to the exploitation of the living resources of the sea.

6. On the basis of the above remarks, and also of articles 55, 56, 62, paragraph 2, 63 and 64 of the Convention, Ukraine does not support the effort of some coastal States to give their own exclusive economic zone the legal status of a territorial sea, or the intention to regulate fishing in adjacent areas of the high seas on the basis of national legislation inconsistent with the provisions of the 1982 Convention on the Law of the Sea.

7. Regulation of fishing, rational utilization and conservation of straddling fish stocks and highly migratory fish stocks in the oceans and seas, including on the high seas, must be carried out on an inter-state basis in a spirit of cooperation and good will and must be based on the following principles:

(a) Consensus in drawing up conservation measures: the most effective approach to resource conservation is the establishment of regional international fisheries organizations working on a consensus basis;

(b) Scientific basis for decisions: responsibility of coastal countries for organizing the monitoring of straddling and highly migratory fish stocks in their zones; voluntary monitoring of resources by all countries engaging in fishing on the high seas;

(c) An appropriate combination of rights and obligations: participation, on a non-discriminatory basis, of all States interested in the stocks in question in the work of the subregional and regional fisheries management organizations and mechanisms;

(d) Coastal States have preferential rights with respect to the conservation of straddling and highly migratory fish stocks in their exclusive economic zones, and shall assume responsibility for establishing a mechanism to regulate straddling and highly migratory fish stocks in the adjacent areas of the high seas;

(e) The habitats of straddling and highly migratory species, which occupy extensive areas of ocean space and, as a rule, extend over the economic zones of a number of countries, as well as a considerable part of the high seas, may not be assigned any special status which would not be in conformity with the Convention.

8. To secure successful implementation of the principles of international regulation of fishing set forth in the Convention and conservation of straddling and associated species, interested countries exploiting the stocks shall take all necessary measures to establish international fisheries organizations to manage the stocks of each specific species.

9. The main sphere of activity of international fisheries organizations should be to determine the regime for rational utilization of fish stocks, and also to agree on and adopt the necessary measures for the conservation of exploited stocks and accompanying (associated and dependent) species in accordance with article 119 of the Convention, taking into account the specific characteristics of the region or subregion. In this connection, States engaging in fishing in the region concerned shall carry out the following coordinated measures:

(a) Collection, storage and processing of fishing statistics and biological and oceanological information in accordance with the minimum data requirements for the conservation and management of straddling fish stocks and highly migratory fish stocks proposed in Annex I to the negotiating text prepared by the Chairman of the conferences (A/CONF.164/13* of 23 November 1993);

(b) Organization of assessment of stocks, determination and regulation of the magnitude of removal and/or of fishing effort;

(c) Institution of conservation measures, compatible and interrelated with the measures taken by States, to regulate the fishing industry within the areas

under their national jurisdiction in accordance with the United Nations Convention on the Law of the Sea; the measures introduced with respect to resources on the high seas must ensure comparable intensity of exploitation of a single stock both on the high seas and in waters within national jurisdiction;

(d) Holding of scientific congresses, dissemination of all scientific and fisheries information among participating States.

10. Flag States whose vessels engage in fishing on the high seas must voluntarily assume responsibility for implementing the conservation measures adopted by regional international organizations. The responsibility of flag States must be based on the following principles:

(a) States engaging in fishing for straddling and highly migratory species shall establish or join regional international organizations, or participate in their work as observers;

(b) Catch quotas shall be apportioned in the first instance among the participants in regional fisheries organizations, taking into account their traditions, and also the special needs of developing States; States which are not members of the organizations may apply for access to the unclaimed portion of quota;

(c) The national legislation of the flag State must provide for the following penalties for breach of the conservation measures:

- revocation of licence;
- revocation of the skipper's fishing permit;
- confiscation of fishing gear and the fish on board;
- confiscation of the vessel;

(d) Measures which could be adopted by international organizations with respect to flag States whose vessels violate the conservation measures:

- reduction of the catch quota for regulated straddling species and highly migratory targets of fishing;
- revocation of the quota for a period within which the flag State will have to take adequate steps to prevent violations;
- limitation, by port States which are members of regional international organizations, of cargo operations relating to transshipment of the violator State's fish;
- inclusion of violator States in an international organizations' "blacklist" with a view to limiting their fishing on the high seas;
- expulsion from membership of the regional organization;

(e) Control and responsibility measures:

- establishment of regional and national registers of fishing vessels to ensure that they are recorded and their current technical state is assessed, and provision of assistance to national and international regional organizations in collecting information on fishing activity.